

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-12011-MLW

CARLOS A. AGUIAR,     )  
                    Plaintiff     )  
                                   )  
                    v.             )  
                                   )  
LIMA & CURA FISHING     )  
CORPORATION,             )  
                    Defendant     )

**DEFENDANT'S MOTION TO COMPEL  
PLAINTIFF'S RESPONSE TO DISCOVERY REQUESTS**

Now comes the defendant, Lima & Cura Fishing Corporation and hereby moves this Court for an Order compelling the plaintiff to respond to the interrogatories and request for production of documents propounded by the defendant. As grounds for this motion, defendant states as follows.

1. This is a case that the plaintiff has brought pursuant to the Merchant Marine Act of 1920, commonly known as the Jones Act. The plaintiff alleged that he sustained injury while in the service of the F/V MY WAY.
2. On October 24, 2004 the defendant served the plaintiff with their Fed. R. Civ. P. 26(a)(1) Initial Disclosures and on November 5, 2004 the defendant served the plaintiff with interrogatories and request for production of documents.
3. On March 3, 2005, the defendant sent a letter to the plaintiff inquiring about the status of the plaintiff's response to discovery in accordance with Local Rule 37.1. **Exhibit A.** The plaintiff did not respond to this letter. The letter indicated the defendant's intention to file a motion to compel discovery responses.

4. Fed. R. Civ. P. 37(a)(2)(B) provides that a party may bring a motion where an opposing party fails to respond to interrogatories submitted under Rule 33 or fails to respond to document requests submitted under Rule 34. In this case, the plaintiff has not responded to the interrogatories or the document requests propounded by the defendant.

Wherefore, the defendant, Lima & Cura Fishing Corporation requests that this Court issue an Order compelling the plaintiff to serve responses to their interrogatories and request for production of documents in a timely manner.

**Request for a Hearing**

Counsel for the defendant, Lima & Cura Fishing Corporation, hereby requests that this Court schedule the foregoing motion for a hearing at the Court's earliest convenience.

**Certification of Counsel**

Counsel for the defendant, Lima & Cura Fishing Corporation, hereby certifies that on March 3, 2005, we sent the attached letter (Exhibit A) to the plaintiff requesting a conference to resolve a discovery dispute pursuant. The letter indicated that we would file a motion if no response was received. As of the present date, the plaintiff has not responded to this request and the plaintiff has not served responses to the discovery requests.

Lima & Cura Fishing Corporation,  
By their attorneys,

/s/ Syd A. Saloman  
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